

### **REMARKS**

The pending Office Action addresses and rejects pending claims 28-44. Reconsideration and allowance is requested based on the amendments and remarks submitted herewith.

#### ***Amendments to the claims***

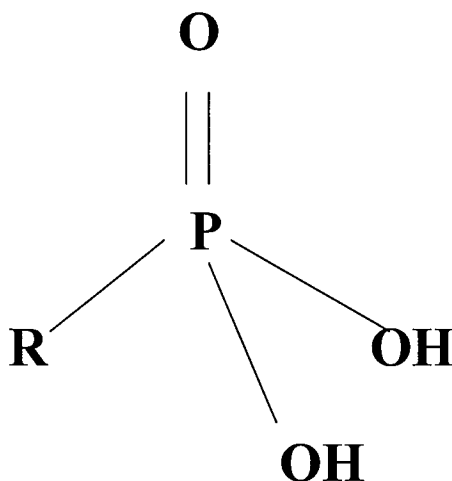
Applicant has amended independent claim 28 to recite a pesticide which requires, among other components, a food source that is effective as a bait that is edible to pests. This amendment is supported in the specification, for example, at page 2, paragraph [0007] and page 5, paragraph [0015]. The amendment does not add new matter. Applicant has also amended dependent claims 36 and 37 to provide proper antecedent basis in view of the amendments to claim 28. These amendments are supported in the specification, for example, at page 5, paragraphs [0014] and [0015].

#### ***Claim Rejections***

##### **Claims 28, 29, 32-44**

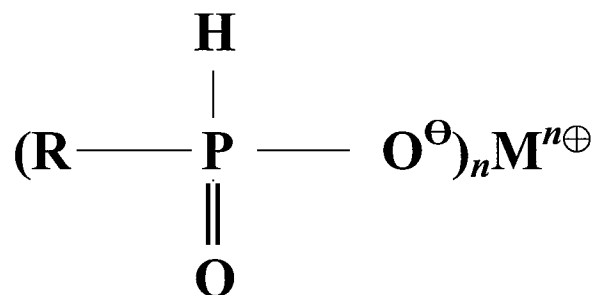
Claims 28, 29, 32-44 are rejected pursuant to 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,206,228 of Collins (“Collins”). The Examiner relies on Collins’ disclosure of Fosetyl A-1 & water carrier in example 4 as teaching applicant’s “pesticide.” The Examiner’s reliance is misplaced.

Applicant’s independent claim 28 requires, among other components, a phosphonic acid chelating agent. A phosphonic acid is an organic acid containing one or more C-PO(OH)<sub>2</sub> or CPO(OR)<sub>2</sub> groups where R=alkyl or aryl groups. The structure of phosphonic acid is represented as follows, where P=phosphorus and R is an alkyl or aryl group:



For the Examiner's convenient reference, applicant attaches hereto a commercial product description for HEDP entitled *Dequest Phosphonates by Solutia*. HEDP is an example of a phosphonic acid identified in the applicant's specification, for example, at paragraph [0012]. This commercial product description details the chemical structure and properties of HEDP as a phosphonic acid.

Collins' compounds are not phosphonic acids because they do not have a carbon bond with at least one functional group,  $\text{PO}_3\text{H}_2$ . Instead, as explained in Collins, for example, at col. 2, lines 36-62, Collins' compounds are either O-alkyl phosphonate derivatives or phosphorous acid derivatives having the formula:



where **R** is an OH or an alkoxy. Collins' compound is fundamentally different because, among other reasons, the R group denotes an oxygen atom bonded to the phosphorus, not a *carbon*

atom as in the claimed phosphonic acid compound. Collins' derivatives, lacking the carbon bonding of phosphonic acid, are structurally totally different than applicant's phosphonic acid pesticidal compositions.

In addition, applicant's phosphonic acid chelating agents are biologically different as well. For example, applicant's phosphonic acid compounds have totally different reactivities as compared with the Collins compounds. Applicant's phosphonic acid chelating agents, due to the carbon bonds, have a strong anionic(negative) charge and are stable in aqueous systems to high temperatures, pressures and pH extremes. Additionally, applicant's phosphonic acids are highly soluble in aqueous systems and have many metal chelation sites within their complex structures.

Accordingly, independent claim 28, as well as claims 29 and 32-44 which depend therefrom, distinguish over Collins and represent allowable subject matter.

**Claims 28-35 and 37-42**

Claims 28-35 and 37-42 are rejected pursuant to 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,972,273 of Sedun et al. ("Sedun"). Applicant submits that claim 28 distinguishes over Sedun. In particular, claim 28 as amended requires, among other components, a food source effective as a bait edible to pests. Sedun does not teach or even suggest such a component. In fact, a bait would be totally useless in Sedun, which relates to herbicides for controlling unwanted vegetation. In Sedun, unwanted vegetation is controlled by *applying* a herbicide to the unwanted vegetation, resulting in the unwanted vegetation being killed. See Sedun at col. 6, lines 58-59. In Sedun, the herbicide is applied, for example, by spraying. See Sedun, at col. 6, lines 57-57. To the contrary, in the present application, the claimed compound includes a food source effective as a bait edible to pests. The pests are attracted to the composition, ingest the pesticidal composition, and, as a result, then die.

Dependent claims 29-35 and 37-42 are allowable for at least the same reasons that amended claim 28 is allowable over Sedun.

Accordingly, independent claim 28, as well as claims 29-35 and 37-42, which depend therefrom, represent allowable subject matter over Sedun.

***Conclusion***

In conclusion, Applicant submits that all claims are now in condition for allowance, and allowance thereof is respectfully requested. The Examiner is encouraged to telephone the undersigned attorney for Applicant if such communication is deemed to expedite prosecution of this application.

Applicant submits herewith a petition for extending the time for responding to the latest Office Action one month to and including August 9, 2007, along with the appropriate fee.

Dated: August 9, 2007

Respectfully submitted,

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